

AMENDED IN SENATE JUNE 22, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 21, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1216

Introduced by Assembly Member Evans

February 27, 2009

An act to amend Section 29413 of, *and to add Chapter 27 (commencing with Section 79401) to Part 2 of Division 22 of, the Food and Agricultural Code, relating to ~~honey~~ bees, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1216, as amended, Evans. ~~Honey-Bees: honey: California Apiary Research Commission.~~

~~Existing~~

(1) *Existing* law defines “honey” for purposes of those provisions of law that regulate the content, labeling, and container standards of honey.

This bill would establish a new definition of honey for these purposes, ~~including new technical standards, as specified, and new honey designation provisions, the violation of which would be a crime under other provisions of law.~~

~~By creating a new crime, this bill would impose a state-mandated local program.~~

(2) *Existing* law establishes various commissions to promote agricultural products from the state.

This bill would create the California Apiary Research Commission in state government with a prescribed membership, and would specify the powers, duties, and responsibilities of the commission. The commission would be authorized to carry out programs of education, promotion, marketing, and research relating to pollination units, bees, honey, or hive products. The bill would authorize the commission to levy an assessment, as provided, on producers, as defined, and would authorize the expenditure of those funds for purposes of implementing the bill, thereby making an appropriation.

The bill, except as necessary to conduct an election, would not become operative until the producers, by referendum, vote in favor of the bill's provisions, as prescribed. The bill would also provide for the suspension of the operation of its provisions and for concluding the operations of the commission. The bill would make rendering or furnishing false reports, statements, or records, or affecting the shipment and marketing of pollination units, bees, honey, or hive products to avoid payment of assessments, a misdemeanor, thereby imposing a state-mandated local program by creating a new crime. The bill would authorize the commission to bring certain civil actions to enforce the bill's provisions and regulations adopted pursuant to these provisions. The bill would also authorize the commission to recommend to the Secretary of Food and Agriculture the adoption of honey and pollinating unit standards or marketing activity, as provided.

~~The~~

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 29413 of the Food and Agricultural Code
- 2 is amended to read:
- 3 29413. (a) "Honey" means the natural food product resulting
- 4 from the harvest of nectar by honeybees and the natural activities
- 5 of the honeybees in processing nectar. It consists essentially of
- 6 different sugars, predominantly fructose and glucose as well as

1 other substances such as organic acids, enzymes, and solid particles
2 derived from honey collection. The color of honey can vary from
3 nearly colorless to dark brown. The consistency can be fluid,
4 viscous, or partially to completely crystallized. The flavor and
5 aroma vary, but are derived from the plant's origin. ~~Honey sold~~
6 ~~as such shall not have added to it any food additives, nor shall any~~
7 ~~other additions be made other than honey. It shall not have begun~~
8 ~~to ferment or effervesce and no pollen or constituent unique to~~
9 ~~honey may be removed except where unavoidable in the removal~~
10 ~~of foreign matter. Chemical or biochemical treatments shall not~~
11 ~~be used to influence honey crystallization. Honey shall meet the~~
12 ~~following standards:~~

13 (1) ~~Honey shall not have a moisture content exceeding 23~~
14 ~~percent. No water may be added to honey in the course of~~
15 ~~extraction or packing for sale or resale as honey.~~

16 (2) ~~The ratio of fructose to glucose shall be greater than 0.9.~~
17 ~~Sucrose content shall not exceed 10 percent, except for lavender~~
18 ~~(Lavandula) or borage (Borago officinalis) which may contain up~~
19 ~~to 15 percent sucrose. Maltose content shall not exceed 10 percent.~~

20 (3) ~~The absolute value of Carbon Stable Isotope Ratio Analysis~~
21 ~~shall be more negative than -20.0.~~

22 (b) Products conforming to the standard of identity in
23 subdivision (a) shall be designated "honey."

24 (e) ~~Honey may be designated according to floral or plant source~~
25 ~~if it comes predominantly from that particular source and has the~~
26 ~~organoleptic, physiochemical, and microscopic properties~~
27 ~~corresponding with that origin.~~

28 (d) ~~Where honey has been designated according to floral or~~
29 ~~plant source, then the common name or botanical name of the~~
30 ~~floral source shall be used in conjunction with or joined with the~~
31 ~~word "honey."~~

32 *SEC. 2. Chapter 27 (commencing with Section 79401) is added*
33 *to Part 2 of Division 22 of the Food and Agricultural Code, to*
34 *read:*

1 *CHAPTER 27. CALIFORNIA APIARY RESEARCH COMMISSION*

2
3 *Article 1. Declaration and General Provisions*

4
5 79401. *The California beekeeping industry provides critical*
6 *pollination services to producers of over 90 California agricultural*
7 *crops that constitute one-third of our daily diet and 37.5 percent*
8 *of California's total agricultural production. Additionally,*
9 *California beekeepers rank in the top four states, annually, in*
10 *honey production. The industry provides substantial and necessary*
11 *revenues for the state and for its citizens.*

12 79402. *The establishment of the commission is necessary for*
13 *the efficient creation and management of a research program to*
14 *protect the health of honeybees, an integrated approach to manage*
15 *pests and diseases common to honeybees, and to develop more*
16 *efficient colony management practices. The commission is also*
17 *necessary to ensure the existence of the segment of the industry*
18 *that provides half of the queen bees, bulk bees, and small colonies*
19 *to other beekeepers throughout the country and Canada. The*
20 *commission is also necessary for the efficient development and*
21 *management of state, national, and international promotion and*
22 *education programs that, combined with research, will enhance*
23 *the competitiveness of the California beekeeping industry*
24 *worldwide.*

25 79403. *The provision of pollination services, production of*
26 *honey, bees, and other hive products in this state is hereby declared*
27 *to be affected with a public interest. This chapter is enacted in the*
28 *exercise of the police power of this state for the purpose of*
29 *protecting the health, peace, safety, and general welfare of the*
30 *people of this state.*

31 79404. *The commission form of administration created by this*
32 *chapter is uniquely situated to provide those engaged in apiary*
33 *operations the opportunity to avail themselves of the benefits of*
34 *collective action in the broad fields of transportation, pest*
35 *management, advertising, promotion, food safety, production*
36 *research, nutrition, marketing research, quality and maturity*
37 *standards, the collection and dissemination of crop volume and*
38 *related statistics, and public education.*

Article 2. Definitions

79411. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

79412. “Advertising and promotion” mean, in addition to their ordinarily accepted meaning, any plan directed toward increasing the rental of colonies for crop pollination and the sale of honey, bees, and other hive products in domestic or foreign markets and trade promotion and activities for the prevention, modification, or removal of trade barriers that affect the marketing of honey or other hive products.

79413. “Apiary” means the physical location where beekeepers place one or more colonies of honeybees. As an adjective, “apiary” means pertaining to any aspect of beekeeping or the beekeeping industry.

79414. “Books and records” means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

79415. “Colony” means the queen, the adult worker and drone bees, and the brood (eggs, larvae, and pupae) living together in a single society.

79416. “Commission” means the California Apiary Research Commission.

79417. “Districts” consist of the following:

(a) District 1 consists of the counties in the Sacramento Valley region.

(b) District 2 consists of the counties in the San Joaquin Valley region.

(c) District 3 consists of the counties in southern California, south of the Tehachapi Mountains.

79418. “Ex officio members” are nonvoting members of the commission.

79419. “Hive” means the structure containing a honeybee colony.

79420. “Hive products” mean materials collected or generated by honeybees, other than bees and honey, including, but not limited to, beeswax, pollen, royal jelly, venom, and propolis.

1 79421. “Market” or “marketing” means to sell or otherwise
2 distribute pollination units, bees, honey, or hive products into
3 commercial channels or trade.

4 79422. “Marketing research” means any research relating to
5 the rental of pollination units or the sale of bees, honey, or hive
6 products.

7 79423. “Marketing season” and “fiscal year” are synonymous
8 terms and mean the period beginning March 1 of any year and
9 extending through the last day of February of the following year.

10 79424. “Pollination unit” means a colony of adequate strength
11 to meet the criteria delineated in a pollination contract for use in
12 commercial crop pollination.

13 79425. “Producer” means any person who produces or causes
14 to be produced for market and who shall, upon request of the
15 commission, provide proof of earning income from renting
16 pollination units or selling bees, honey, or hive products.

17 79426. “Production research” means any research relating
18 to the health and management of honeybee colonies to maximize
19 colony strength and income.

20 79427. “Secretary” means the Secretary of Food and
21 Agriculture.

22
23 Article 3. The California Apiary Research Commission
24

25 79431. (a) There is in the state government the California
26 Apiary Research Commission. The commission shall be composed
27 of six producers and one public member. The producer members
28 shall be elected by producers on a statewide basis with two
29 members elected from each district. The public member shall be
30 appointed to the commission by the secretary from nominees
31 recommended by the commission.

32 (b) The secretary and other appropriate persons as determined
33 by the commission shall be ex officio members of the commission.

34 79432. The secretary may require the commission to correct
35 or cease any existing activity or function that is determined by the
36 secretary not to be in the public interest or to be in violation of
37 this chapter.

38 79433. The commission shall reimburse the secretary for all
39 expenditures incurred by the secretary in carrying out his or her
40 duties and responsibilities under this chapter. However, a court

1 *may, if it finds that the secretary acted arbitrarily or capriciously*
2 *in restricting the activities or functions of the commission, relieve*
3 *the commission of the responsibility for payment of the secretary's*
4 *legal costs with regard to that action.*

5 *79434. Except for the ex officio members of the commission,*
6 *each member of the commission shall have an alternate member*
7 *elected in the same manner as the member. An alternate member,*
8 *in the absence of the member for whom he or she is an alternate,*
9 *shall serve in place of the member on the commission. An alternate*
10 *member may also serve in place of any other absent member of*
11 *the same classification, if the member's alternate is also absent.*
12 *However, an alternate may not serve in place of more than one*
13 *absent member at a meeting. An alternate member serving in place*
14 *of a member shall have and be able to exercise all rights,*
15 *privileges, and powers of the member when serving on the*
16 *commission. In the event of death, removal, resignation, or the*
17 *disqualification of a member, the alternate for the member, or*
18 *another alternate of the same classification if the alternate for the*
19 *member is absent, shall act as a member on the commission until*
20 *a qualified successor is elected.*

21 *79435. Any vacancy on the commission including, but not*
22 *limited to, the failure of any person elected to the commission as*
23 *a member or alternate member to continue in his or her position*
24 *due to a change in status making him or her ineligible to serve, or*
25 *due to death, removal, or resignation, shall be filled by the*
26 *appointment of another person, for the unexpired portion of the*
27 *term, by a majority vote of the commission. However, the appointee*
28 *shall fulfill all the qualifications set forth in this article as required*
29 *for the office he or she is to occupy. The qualifications of any*
30 *person to fill a vacancy on the commission shall be certified in*
31 *writing to the secretary. The secretary shall notify the commission*
32 *if he or she determines that the person is not qualified.*

33 *79436. A producer member or his or her alternate on the*
34 *commission shall be an individual, partner, or employee of a*
35 *producer who has a financial interest in producing, or causing to*
36 *be produced, pollination units, bees, honey, or hive products for*
37 *market. The producer member or his or her alternate shall be so*
38 *qualified during the entire term of office.*

39 *79437. The public member, or his or her alternate on the*
40 *commission, shall have all the powers, rights, and privileges of*

1 any other member on the commission. The public member shall
2 not have any financial interest in the beekeeping industry.

3 79438. The term of office of all members of the commission
4 and alternates, except any ex officio member, shall be three years
5 from the date of their election and until their successors are
6 elected, except, that two of the first members shall serve a one-year
7 term and two shall serve two-year terms. The determination of the
8 term of each member shall be made by lot at the time of election.

9 79439. The commission may sue and be sued and enter into
10 contracts. Copies of its proceedings, records, and acts, when
11 authenticated, shall be admissible in evidence in all courts of the
12 state, and shall be prima facie evidence of the truth of all
13 statements therein.

14 79440. A quorum of the commission is a majority of the
15 producer members on the commission.

16 79441. The secretary or his or her representatives shall be
17 notified and may attend each meeting of the commission and any
18 committee meeting of the commission. However, the secretary is
19 not entitled to attend an executive session of the commission called
20 for the purpose of discussing potential or actual litigation against
21 the department.

22 79442. No member of the commission or of any committee
23 established by the commission, which may include nonmembers
24 of the commission, shall receive a salary. Except for ex officio
25 government members, the members may receive reasonable and
26 necessary traveling expenses and meal allowances, as established
27 by the commission, for each day spent in actual attendance at, or
28 in traveling to and from, meetings of the commission or committees
29 of the commission, or on special assignment for the commission.

30 79443. If the secretary is required to concur in a decision of
31 the commission, he or she shall indicate his or her response to the
32 commission within 15 working days from notification of the
33 decision. The response may be a request that additional
34 information be provided.

35 79444. All moneys received by any person from assessments
36 levied under the authority of this chapter or otherwise received
37 by the commission shall be deposited in banks designated by the
38 commission and shall be disbursed by order of the commission
39 through an agent or agents designated for that purpose. Any
40 authorized agent or agents shall be bonded by a fidelity bond,

1 *executed by a surety company authorized to transact business in*
2 *the state, in favor of the commission, in the amount of not less than*
3 *twenty-five thousand dollars (\$25,000).*

4 *79445. The state shall not be liable for the acts of the*
5 *commission or its contracts. Payments of all claims arising by*
6 *reason of the administration of this chapter or acts of the*
7 *commission shall be limited to the funds collected by the*
8 *commission. No member, alternate member, or any agent of the*
9 *commission shall be personally liable on the contracts of the*
10 *commission and no member, alternate member, or agent of the*
11 *commission shall be responsible individually in any way to any*
12 *producer or any other person for error in judgment, mistakes, or*
13 *other acts, either of commission or omission, as principal or agent,*
14 *except for his or her own individual acts of dishonesty or crime.*
15 *No member or alternate member shall be held responsible*
16 *individually for any act or omission of any member or alternate*
17 *member of the commission. The liability of the members and*
18 *alternate members shall be several and not joint, and no member*
19 *or alternate member shall be liable for the default of any other*
20 *member or alternate member.*

21
22 *Article 4. Powers and Duties of the Commission*
23

24 *79451. The powers and duties of the commission shall include,*
25 *but are not limited to, all of the following:*

26 *(a) Adopt and from time to time alter, rescind, modify, and*
27 *amend bylaws, rules, regulations, and orders for carrying out this*
28 *chapter, including rules for appeals from any bylaw, rule,*
29 *regulation, or order of the commission. These actions shall not be*
30 *subject to Chapter 3.5 (commencing with Section 11340) of Part*
31 *1 of Division 3 of Title 2 of the Government Code.*

32 *(b) Keep accurate books, records, and accounts of all of its*
33 *dealings, which books, records, and accounts shall be subject to*
34 *an annual audit by an auditing firm selected by the commission*
35 *with the concurrence of the secretary. The audit shall be made a*
36 *part of an annual report to all producers, and copies of the audit*
37 *shall be submitted to the Legislature and the department. In*
38 *addition, the secretary may, as he or she determines necessary,*
39 *conduct, or cause to be conducted, a fiscal and compliance audit*
40 *of the commission.*

1 (c) Promote the sale of pollination units, bees, honey, or hive
2 products by advertising and any other promotional means,
3 including cost-sharing advertising, for the purpose of maintaining
4 and expanding present markets and creating new and larger
5 intrastate, interstate, and foreign markets for pollination units,
6 bees, honey, or hive products, and to educate and instruct the
7 public with respect to the uses, healthful properties, and nutritional
8 value of honey.

9 (d) Educate and instruct the general public and beekeepers with
10 respect to proper methods of behaving around honeybee colonies
11 and using honeybees as pollination units, and for producing bees,
12 honey, or hive products.

13 (e) Make market surveys and analyses, and present facts to, and
14 negotiate with, state, federal, and foreign agencies on matters that
15 affect the marketing of pollination units, bees, honey, or hive
16 products.

17 (f) Make, in the name of the commission, contracts to render
18 service in formulating and conducting plans and programs, and
19 any other contracts or agreements the commission determines
20 necessary for the promotion of the beekeeping industry.

21 (g) Conduct, and contract with others to conduct, scientific
22 research, including the study, analysis, dissemination, and
23 accumulation of information obtained from research or elsewhere
24 respecting colony health and production, marketing, and
25 distribution of pollination units, bees, honey, or hive products.

26 (h) Collect information and publish and distribute to producers
27 a bulletin or other communication for dissemination of information,
28 including, but not limited to, crop statistics relating to the
29 beekeeping industry.

30 (i) Prescribe the form and manner by which proponents and
31 opponents of the commission may contact producers so long as
32 all expenses associated with the contacts are paid in advance.

33 79452. (a) To prevent unfair trade practices which are
34 detrimental to California's apiary industry, including, but not
35 limited to, deception and misinformation, the commission shall
36 collect and disseminate to any and all interested persons market
37 price information based on sales that have occurred.

38 (b) The procedure for the collection and dissemination of the
39 information pursuant to this section shall be approved by the
40 secretary.

Article 5. *Implementation and Voting Procedures*

79461. (a) *Within 15 days after the effective date of this chapter, the secretary shall establish a list of producers eligible to vote on the implementation of this chapter. In establishing the list, the secretary shall require that producers in California submit the names, mailing addresses, and the volume of pollination units, bees, honey, or hive products produced by each producer during the preceding marketing season.*

(b) *Any producer whose name does not appear on the secretary's list may have his or her name placed on the list by filing with the secretary a signed statement identifying himself or herself as a producer. Failure to be on the list does not exempt the producer from paying assessments under this chapter.*

79462. *This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until the secretary finds either of the following in a referendum vote conducted by the secretary:*

(a) *Sixty-five percent of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting produced a majority of the total quantity of pollination units, bees, honey, or hive products produced in the preceding marketing season by all of the producers voting in the referendum.*

(b) *A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting produced 65 percent or more of the total quantity of pollination units, bees, honey, or hive products produced in the preceding marketing season by all of the producers voting in the referendum.*

79463. *The secretary shall establish a period in which to conduct the referendum which shall not be less than 10 days or more than 60 days in duration and may prescribe additional procedures necessary to conduct the referendum. If the initial period established is less than 60 days, the secretary may extend the period. However, the total referendum period may not exceed 60 days.*

79464. *Nonreceipt of a ballot shall not invalidate a referendum.*

79465. *If the secretary finds that a favorable vote has been given as provided in Section 79462, he or she shall so certify and give notice of the vote to all producers whose names and addresses are on file with the secretary.*

1 79466. *If the secretary finds that a favorable vote has not been*
2 *given as provided in this article, he or she shall so certify and*
3 *declare this chapter inoperative. The secretary may conduct*
4 *another implementation referendum vote one or more years after*
5 *the previous vote has been taken.*

6 79467. (a) *Upon certification of the commission, the secretary*
7 *shall contact all producers in a manner determined by the secretary*
8 *for the purpose of nominating and electing persons to the*
9 *commission. To be eligible for election to the commission,*
10 *nominees shall present to the secretary a nomination petition with*
11 *the signatures of at least three eligible persons.*

12 (b) *Subsequent to the first selection of members of the*
13 *commission, persons to be elected to the commission shall be*
14 *selected pursuant to nomination and election procedures*
15 *established by the commission with the concurrence of the*
16 *secretary.*

17 79468. *Prior to the referendum vote conducted by the secretary*
18 *pursuant to this article, the proponents of the commission shall*
19 *deposit with the secretary an amount of funds determined necessary*
20 *by the secretary to defray the expenses of preparing the necessary*
21 *lists and information and conducting the vote. Any funds not used*
22 *for this purpose shall be returned to the proponents of the*
23 *commission who deposited the funds with the secretary. Upon*
24 *establishment of the commission, the commission may reimburse*
25 *the proponents of the commission for any funds deposited with the*
26 *secretary and for any legal expenses and costs incurred in*
27 *establishing the commission.*

28
29 Article 6. Assessments and Records
30

31 79471. *The commission shall, not later than March 1 of each*
32 *year, or as soon thereafter as possible, establish the assessment*
33 *to be paid by the producers for the marketing season. The*
34 *assessment shall not be more than one dollar (\$1) per colony.*

35 79472. *All proprietary information obtained by the commission*
36 *or the secretary from any source, including the names and*
37 *addresses of producers, shall be confidential and shall not be*
38 *disclosed except when required by court order in a judicial*
39 *proceeding.*

1 79473. Any assessment that is levied as provided in this chapter
2 is a personal debt of every producer so assessed.

3 79474. Any person who fails to file a return or pay any
4 assessment within the time required by the commission shall pay
5 to the commission a penalty of 10 percent of the amount of the
6 assessment determined to be past due and, in addition, interest on
7 the unpaid balance at the rate of 1.5 percent per month.

8
9 Article 7. Actions and Penalties

10
11 79481. It is a misdemeanor punishable by imprisonment in the
12 county jail not exceeding six months, or by a fine not exceeding
13 one thousand dollars (\$1,000), or by both fine and imprisonment,
14 for any person to willfully render or furnish a false report,
15 statement, or record required by the commission, or in any way
16 to affect the shipment and marketing of pollination units, bees,
17 honey, or hive products in order to avoid payment of assessments.

18 79482. The commission shall establish procedures for the
19 purpose of according individuals aggrieved by its actions or
20 determinations an informal hearing before the commission, or
21 before a committee of the commission designated for this purpose.
22 Appeals from decisions of the commission may be made to the
23 secretary. The determination of the secretary shall be subject to
24 judicial review upon petition filed with the appropriate superior
25 court.

26 79483. (a) The commission may commence civil actions and
27 utilize all remedies provided in law or equity for the collection of
28 assessments and civil penalties, and for obtaining injunctive relief
29 or specific performance, relating to this chapter and the rules and
30 regulations adopted under this chapter. A court shall issue to the
31 commission any requested writ of attachment or injunctive relief
32 upon a prima facie showing by verified complaint that a named
33 defendant has violated this chapter or any other rule or regulation
34 of the commission, including, but not limited to, the nonpayment
35 of assessments. No bond shall be required to be posted by the
36 commission as a condition for the issuance of any writ of
37 attachment or injunctive relief.

38 (b) Upon entry of any final judgment on behalf of the
39 commission against any defendant, the court shall enjoin the
40 defendant from conducting any type of business regarding

1 *pollination units, bees, honey, or hive products until there is full*
2 *compliance with, and satisfaction of, the judgment.*

3 79484. *Any action by the commission for any penalty or other*
4 *remedy that is prescribed under this chapter shall be commenced*
5 *within two years from the date of discovery of the alleged violation.*

6 *Any action against the commission by any person shall be*
7 *commenced within two years from the date of the alleged violation.*

8 79485. *The commission is not required to allege or prove that*
9 *an adequate remedy at law does not exist in any action brought*
10 *under this chapter.*

11 79486. *This chapter shall be liberally construed. If any section,*
12 *clause, or part of this chapter is for any reason held*
13 *unconstitutional or invalid as applied to any person or as applied*
14 *under certain circumstances, that decision shall not affect the*
15 *remaining portions of this chapter or the application of this chapter*
16 *to any other persons or under any other circumstance.*

17 79487. *The termination of this chapter shall not affect or waive*
18 *any right, duty, obligation, or liability that has arisen or that may*
19 *thereafter arise in connection with this chapter; release or*
20 *extinguish any violation of this chapter; or affect or impair any*
21 *right or remedies of the commission with respect to any violation.*

22
23 *Article 8. Continuation or Suspension and Termination*
24

25 79491. (a) *Five years after implementation of this chapter,*
26 *the secretary shall hold a public hearing, after providing proper*
27 *notice to all persons subject to this chapter and any other persons*
28 *or entities who have requested, in writing, notice of the hearing,*
29 *to determine whether the operation of this chapter should be*
30 *continued. If the secretary finds after the hearing that a substantial*
31 *question exists among the persons assessed under this chapter*
32 *regarding whether the operation of this chapter should be*
33 *continued, the secretary shall submit the chapter to a reapproval*
34 *referendum to be conducted among producers to determine whether*
35 *the operations of this chapter shall be reapproved and continued*
36 *in effect.*

37 (b) *If the secretary finds after conducting a hearing that no*
38 *substantial question exists or, if a reapproval referendum is*
39 *required, that a majority of the eligible producers voting in the*
40 *referendum voted in favor of continuing the operations of this*

1 chapter, the secretary shall so certify and this chapter shall remain
2 operative. If the secretary finds that a favorable vote has not been
3 given, he or she shall so certify and declare the operation of this
4 chapter and the commission suspended upon the expiration of the
5 current marketing season. Thereupon, the operations of the
6 commission shall be concluded and funds distributed in the manner
7 provided in Section 79494.

8 79492. Following a hearing, and favorable referendum if
9 required, the process specified in Section 79491 shall be conducted
10 by the secretary every five years thereafter between March 1 and
11 February 28, unless a referendum is conducted as the result of a
12 petition pursuant to Section 79493. In that case, the hearing, and
13 referendum if required, shall be conducted every five years
14 following the industry petitioned referendum.

15 79493. (a) Upon a finding by a two-thirds vote of the
16 commission that the operation of this chapter has not tended to
17 effectuate its declared purposes, the commission may recommend
18 to the secretary that the commission be suspended. Any suspension
19 shall not become effective until the expiration of the current
20 marketing season.

21 (b) The secretary shall, upon receipt of a recommendation, or
22 may, after a public hearing to review a petition filed with him or
23 her requesting such suspension, signed by 20 percent of the
24 producers by number who produced not less than 20 percent of
25 the volume in the immediately preceding marketing season, cause
26 a referendum to be conducted among the listed producers to
27 determine if the operations of the commission shall be suspended.
28 However, the secretary shall not hold a referendum as a result of
29 the petition unless the petitioner shows by the weight of evidence
30 that this chapter has not effectuated its declared purposes.

31 (c) The secretary shall establish a referendum period, which
32 shall not be less than 10 or more than 60 days in duration. The
33 secretary may prescribe additional procedures necessary to
34 conduct the referendum. At the close of the established referendum
35 period, the secretary shall tabulate the ballots filed during the
36 period. The secretary shall suspend the operation of this chapter,
37 if the secretary finds that at least 40 percent of the total number
38 of producers from the list established by the secretary participate,
39 and that either of the following occurs:

1 (1) Sixty-five percent of the producers who voted in the
2 referendum voted in favor of suspension, and the producers so
3 voting produced a majority of the total quantity of pollination
4 units, bees, honey, or hive products produced in the preceding
5 marketing season by all of the producers voting in the referendum.

6 (2) A majority of the producers who voted in the referendum
7 voted in favor of suspension, and the producers so voting produced
8 65 percent or more of the total quantity of pollination units, bees,
9 honey, or hive products produced in the preceding marketing
10 season by all of the producers voting in the referendum.

11 79494. After the effective date of suspension of this chapter
12 and of the commission, the operations of the commission shall be
13 concluded and all moneys held by the commission, and moneys
14 collected by assessment and not required to defray the expenses
15 of concluding and terminating operations of the commission, shall
16 be returned on a pro rata basis to all persons from whom
17 assessments were collected in the immediately preceding current
18 marketing season. However, if the commission finds that the
19 amounts returnable are so small as to make impractical the
20 computation and remitting of the pro rata refund to those persons,
21 any moneys remaining and any moneys remaining after payment
22 of all expenses of winding up and terminating operations shall be
23 withdrawn from the approved depository and paid into an
24 appropriate state or federal program or used to fund activities
25 related to the subject matter of this chapter.

26 79495. Upon suspension of the operation of this chapter and
27 of the commission, the commission shall mail a copy of the notice
28 of suspension to all producers affected by the suspension whose
29 names and addresses are on file.

30 31 Article 9. Quality Standards

32
33 79501. The commission may recommend to the secretary that
34 he or she adopt honey and pollinating unit standards or engage
35 in any other activity authorized pursuant to the California
36 Marketing Act of 1937 (Chapter 1 (commencing with Section
37 58601) of Part 2 of Division 21). The adoption of standards or
38 any of these activities shall be in accordance with the procedures
39 specified in that act unless otherwise specified in this article.

1 79502. *Any activity recommended by the commission shall not*
2 *become operative until approved in the manner specified in Section*
3 *79462.*

4 79503. *Any activity adopted pursuant to this article shall be*
5 *implemented by the secretary at the beginning of the marketing*
6 *season next succeeding the date on which the activity is approved*
7 *by the secretary.*

8 79504. *The commission shall serve as the advisory body to the*
9 *secretary on all matters pertaining to this article.*

10 ~~SEC. 2.~~

11 SEC. 3. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.